

REMARKS

35 U.S.C. § 103

Claims 1, 3-7 and 10-12 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,536,479 to Wilson et al. in view of U.S. 5,476,121 to Yoshikawa et al.

Applicants respectfully disagree with this rejection on two grounds: 1) Wilson et al is not applicable prior art against Applicants and 2) the motivation to combine under 35 U.S.C. § 103(a).

First, US 6,536,479 was granted on March 25, 2003, less than one year prior to filing the current application but after the filing date of the parent application 10/230,035, filed on August 28, 2002. While the present application is a Continuation-in-Part of 10/230,035, the subject matter claimed herein is fully disclosed in 10/230,035 and is entitled to the benefit of the filing date of the parent application. Thus, US 6,536,479 is not available prior art as it was not granted prior to the applicable filing date of the present application. Additionally, the Wilson publication US 2002/0189699, published on December 19, 2002, does not predate the applicable filing date of the present application and thus, is also not available prior art.

Second, should the present application not be granted the benefit of the filing date of the parent application, the motivation to combine Wilson et al and Yoshikawa et al fails the three requirements of Graham v. Deere to establish *prima facie* obviousness: 1) must be some suggestion or motivation in the art to modify or combine the references; 2) must be a reasonable expectation of success and 3) the combined references must teach or suggest all the claim limitations.

Wilson teaches a hose having high resistance to permeation and high flexibility. The core layer 12 is formed from co-extruded layers 14, 16 wherein the material in one layer 14 is selected for flexibility while the material in the other layer 16 is selected for its permeation characteristics. Both layers 14, 16 are different polyamides.

Yoshikawa et al discloses a low permeable rubber hose exhibiting low permeation and high flexibility. Yoshikawa recognizes that nylon resins, similar to those disclosed by Wilson, have been “used as the resin forming the inner layer of the hose” (col 1, lines 63-66). Yoshikawa also notes that the polyamides have drawbacks and “were unsuccessful in fully satisfying the requirements of rubber hoses for transfer of coolant and similar fluids” (col 2,

lines 36-39), thus leading those skilled in the art away from the use of nylons for achieving desired permeation and flexibility characteristics in the hose. Yoshikawa teaches that to achieve the desired goals, the hose must have a “thin film of silver or a silver base alloy on the outer surface of the inner tube” (col 3, lines 34-38). Because “the silver or silver alloy thin film provides a barrier layer which mitigates the burden imposed on the resin layer,” Yoshikawa teaches that the inner tube may be formed from a wide variety of material, and the inner tube materials are no longer selected based on the need for permeation and flexibility characteristics (col 4, lines 42-45). In the listing of resins, both polyamide and vinyl resins are disclosed; and Yoshikawa states that one or more resins may be used as a “blend” in forming the tube. Yoshikawa also states that the inner tube may be “two or more layers of the foregoing resin,” i.e. two or more layers of a resin blend, not two or more layers of different resins.

The rejection states that it would have been obvious to modify the barrier layers of Wilson so that the barrier layers are “formed of at least two different materials, one of which is a vinyl resin, as suggested by Yoshikawa et al in order to produce a hose having an inner layer that is relatively high in moisture permeability.” However, this is contrary to the teachings of Yoshikawa and Wilson, and applying the teachings of Yoshikawa to Wilson would not result in applicants claimed hose.

Yoshikawa does *not* teach using a vinyl in the inner core to obtain high moisture permeability. The silver or silver alloy layer is relied upon by Yoshikawa to achieve the desired hose characteristics. Thus, were one in the art seeking to improve permeation rates of Wilson, one would be directed to include a silver or silver alloy outward of the core layers, in addition to any suggested changes to the inner core layers. Such a modified hose of Wilson would then have the silver or silver alloy layers adjacent the inner core layer instead of the intermediate layer bonded directly to the core layers as recited by Applicants. Thus the hose of Wilson fails to teach or suggest all the claimed limitations.

In relevance to the claimed invention, Yoshikawa teaches that the inner tube may be formed of a vinyl resin layer, similar to that claimed. However, since Yoshikawa is being employed to modified Wilson, the teachings of Yoshikawa must be viewed in light of Wilson, not solely in light of the claimed invention.

Additionally, it is stated in the rejection that Yoshikawa teaches the barrier layer may be formed of two different layers. This is incorrect. As noted above, Yoshikawa teaches that the core layer may be formed of “two or more layers of *the foregoing resin*,” the foregoing

resin being either one in the list of resins or a *blend* of resins. This is not a teaching of two distinct layers of two different materials, similar to either Wilson or applicants hoses. At most, Yoshikawa teaches several layers of a blended resin.

It is requested that this rejection be reconsidered and withdrawn for either/or the failure of Wilson to qualify as prior art or the failure of Wilson as modified with Yoshikawa to anticipate the claimed invention.

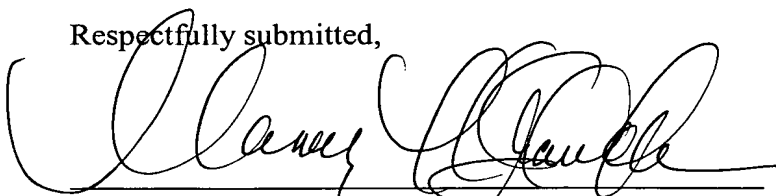
Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. in view of Yoshikawa et al as applied to claim 1 and further in view of US 6,068,026 to Garois.

As claim 2 is a dependent upon a claim rejected above, the rejection of claim 2 fails for the same reasons as set forth above and withdraw is requested.

Allowable Subject Matter

Claims 8 and 9 have been objected to as being dependent upon a rejected base claim. This holding is appreciated, however, Applicants believe all the pending claims are allowable and awaits further action on the pending claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nancy T. Krawczyk', written over a horizontal line.

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